

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*In re* Application of:

BEFORE THE EXAMINER:

Martens et al.

Unassigned

Serial No.: 10/056,839

Group Art Unit No.: 1764

Filed: January 24, 2002

Attorney Docket No.: 2001B007/2

USPTO Conf. No.: 3407

Customer No.: 23455

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Baytown, Texas

**PETITION UNDER 37 CFR 1.181 TO WITHDRAW
A HOLDING OF ABANDONMENT
AND ALTERNATIVE
PETITION TO REVIVE UNDER 37 CFR 1.137**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450,
Alexandria VA 22313-1450

Sir:

This petition is submitted in response to a Notice of Abandonment under 37 CFR 1.53 (f) or (g) mailed October 29, 2003. Respectfully, Applicants petition the Commissioner to withdraw its holding of abandonment for the above-referenced application and consider the Eight Declarations and other accompanying documents filed in response to a Notice of Missing Parts of a Non-Provisional Application dated February 20, 2002 ("Notice to File Missing Parts") as timely filed (hereinafter referred to as "Petition to Withdraw the Holding of Abandonment"). Alternatively, Applicants petition the Commissioner to revive the above-referenced application due to unavoidable (or at least unintentional) delay in the event that the foregoing Petition to Withdraw the Holding of Abandonment is denied (hereinafter referred to as the "Alternative Petition to Revive").

Application No. 10/056,839
Attorney Docket No 2001B007/2
Petition to Withdraw Abandonment Dated December 24, 2003
Reply to Notice of Abandonment Under 37 CFR 1.53 (f) or (g) dated October 29, 2003

REMARKS

Petition to Withdraw the Holding of Abandonment

On February 20, 2002, the Notice to File Missing Parts was mailed to Applicants. Applicants received the Notice to File Missing Parts shortly thereafter. The time for responding to the Notice to File Missing Parts expired on April 20, 2002, without extension. The Transmittal Form and Fee Transmittal responding to the Notice to File Missing Parts were signed by Attorney for Applicants, Paul Lavoie on May 3, 2002. A certificate of mailing was signed by Rachell Bridwell (known at the time of signing as Rachell Smith) certifying that Transmittal Form, Fee Transmittal, eight Declarations, a copy of the Notice To File Missing Parts and a self-addressed postcard (all of these documents are collectively referred to as the "First Response to the Notice to File Missing Parts") were deposited in the U.S postal service on May 3, 2002. See Attachment A and Declaration of Rachell Bridwell. The First Response to the Notice to File Missing Parts also requested a one month extension of time. With the one-month extension of time, the deadline was set to expire on May 20, 2002. Thus, the First Response to the Notice to File Missing Parts was timely filed.

We enclosed a self-addressed postcard with the correspondence. See Declaration of Rachell Bridwell. The postcard was returned from the United States Patent and Trademark Office to our mailing address indicating that the First Response to the Notice to File Missing Parts (including the Fee Transmittal, Transmittal Form, eight Declarations, and Notice to File Missing Parts were received by the U.S.P.T.O.) was received on May 13, 2002 (Exhibit B). Consideration of the eight Declarations (and accompanying documents) as timely filed and reconsideration of the holding of abandonment of the above-referenced application are respectfully requested.

Alternative Petition to Revive

In the event that the Petition to Withdraw the Holding of Abandonment is denied, Applicants alternatively petition the Commissioner to revive the above-referenced application for failure to respond due to unavoidable (or at least unintentional) delay. The Fee Transmittal in the First Response to the Notice to File Missing Parts contained a typographical error where two digits in the serial number were transposed despite the fact

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that the serial number was correct all other places in the First Response to the Notice to File Missing Parts. Specifically, the Fee Transmittal had a serial number of "10/056,389" instead of the correct serial number "10/056,839" (Attachment A). However, the "Transmittal Form" had the correct serial number, properly requested an extension of time and authorized payment of all fees without error (*Ibid.*).

After the First Response to the Notice to File Missing Parts was filed the docket entry was removed in good faith as a completed item. The time for response with all possible extensions of time expired. To the extent that the Commissioner deems the Response to the Notice to File Missing Parts to be an insufficient response, the delay in responding was unavoidable (or at the very least unintentional).

All other statutory requirements for the Alternative Petition to Revive are satisfied. Applicants authorize the Commissioner to charge the requisite fee under 1.17(l) for unavoidable abandonment (or under 1.17(m) for an unintentional abandonment) for a large entity to Deposit Account No. 05-1712 in the event that the Petition to Withdraw the Notice of Abandonment is denied. Furthermore, if the Commissioner deems the First Response to a Notice to File Missing Parts insufficient, a second complete response to the Notice to File Missing Parts is attached as Attachment C with correct serial number and a request for a three-month extension of time. Accordingly, Applicants, in the alternative, request that the above-referenced Application be revived.

Respectfully submitted,

Dec. 24, 2003
Date

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/056,839	01/24/2002	L. Martens	2001B007/2

23455
EXXONMOBIL CHEMICAL COMPANY
P O BOX 2149
BAYTOWN, TX 77522-2149

ACKNOWLEDGED	
PAA Group	NU v 1 1 2003
<input checked="" type="checkbox"/> FYI <input type="checkbox"/> Reminder <input type="checkbox"/> File	

CONFIRMATION NO. 3407
ABANDONMENT/TERMINATION
LETTER

O000000011127045

Date Mailed: 10/29/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 02/20/2002.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

J. Stokes

Customer Service Center
Initial Patent Examination Division (703) 308-1202

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